

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Add Section 1.18
Title 14, California Code of Regulations
Re: Bay-Delta Sport Fishing Enhancement Stamp

I. Date of Initial Statement of Reasons: January 27, 2004

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: February 5, 2004
Location: Long Beach, CA

(b) Discussion Hearing: Date: April 2, 2004
Location: Sacramento

(c) Adoption Hearing: Date: April 22, 2004
Location: (teleconference)

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

During its December 3, 2003 meeting the Commission adopted emergency regulations that defined and clarified the geographic range for the Bay-Delta Sport Fishing Enhancement Stamp (BDES) that conformed with the area identified in recently enacted legislation. The regulation required expedited action under emergency authority of the Commission to enable Title 14 regulations to be effective when the enacted legislation was to take effect on January 1, 2004. The Department is now proposing that the regulations adopted as an emergency action be made permanent with additional clarification of area boundaries for San Francisco Bay and San Pablo Bay.

Legislation (SB 692, Kuehl 2003) was recently enacted that: 1), establishes a Bay-Delta Sport Fishing Enhancement Stamp; 2) specifies that fees received for that stamp shall be deposited in a separate account in the Fish and Game Preservation Fund; 3) that fees received for that stamp shall be spent by the Department for the long-term, sustainable benefit of the primary bay-delta sport

fisheries; and 4) that the director will appoint a Bay-Delta Sport Fishing Enhancement Stamp Fund Advisory Committee. This legislation became effective January 1, 2004.

The legislation reads in part:

"SEC. 2. Section 7360 of the Fish and Game Code is amended to read:

7360. (a) A person shall not sport fish in the tidal waters of the San Francisco Bay Delta and the main stem of the Sacramento and San Joaquin Rivers, including major tributaries, below the most downstream dam, unless he or she first obtains, in addition to a valid California sport fishing license and any applicable stamp or validation issued pursuant to Section 7149 or 7149.05, a Bay-Delta Sport Fishing Enhancement Stamp or validation and affixes that stamp or validation to his or her valid sport fishing license. (b) The commission may modify, by regulation, the geographic parameters specified in subdivision (a)."

The existing legislation requires clarification of its geographic boundaries by the Commission prior to implementation. Since the Commission identified the geographic range for the BDES in December, Department personnel have noted some confusion among anglers with existing descriptions of the boundaries of San Francisco and San Pablo bays. Current regulations state that "A person shall not sport fish in the tidal waters of San Francisco Bay east of the Golden Gate Bridge, San Pablo Bay, Carquinez Strait, . . .". The term "tidal waters" is confusing in terms of the extent of the intended range. For the purpose of the BDES the Department is proposing to identify specific boundaries of San Francisco and San Pablo bays using roads and bridges similar to the description of the Delta in current regulations.

The Department is proposing to clarify the geographic range of San Francisco Bay and San Pablo Bay by indicating they include all tidal waters, sloughs, canals and forebays within the area east of Highway 101, south of Highway 37, west of Highway 29, west of Interstates 80 and 880, and north of Highway 237 including the Napa River below the Trancas bridge in Napa, Sonoma Creek below the Highway 121 bridge, and the Petaluma River east of Highway 101. The inclusion of specific landmarks that identify boundaries where the Bay Delta Fisheries Enhancement Stamp is required will eliminate confusion of the vague boundaries in current regulations.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority cited: Sections 200, 202, 240, 1050 and 7360, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 240, 713, 1050, 1055, and 7360, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change:
None

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

Dates and Locations of Scheduled Hearings:

Date: December 3, 2003

Location: Sacramento

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change: None

(b) No Change Alternative: The changes are necessary to clarify the regulations, and eliminate unnecessary restrictions.

(c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Actions:

The proposed regulatory actions will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Actions:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This action clarifies geographic boundaries of a fishing stamp required by legislation and places no additional economic burden on California businesses.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

Informative Digest/Policy Statement Overview

During its December 3, 2003 meeting the Commission adopted emergency regulations that defined and clarified the geographic range for the Bay-Delta Sport Fishing Enhancement Stamp that conformed with the area identified in recently enacted legislation. The regulation required expedited action under emergency authority of the Commission to enable Title 14 regulations to be effective when the enacted legislation was to take effect on January 1, 2004. The regulations adopted by the Commission under emergency authority are effective for 120 days. The Department is now proposing that the regulations adopted as an emergency action be made permanent with additional clarification of area boundaries for San Francisco Bay and San Pablo Bay.

The Department is proposing to clarify the geographic range of San Francisco Bay and San Pablo Bay by indicating they include all tidal waters, sloughs, canals and forebays within the area east of Highway 101, south of Highway 37, west of Highway 29, west of Interstates 80 and 880, and north of Highway 237 including the Napa River below the Trancas bridge in Napa, Sonoma Creek below the Highway 121 bridge, and the Petaluma River east of Highway 101. The inclusion of specific landmarks that identify boundaries where the Bay Delta Fisheries Enhancement Stamp is required will eliminate confusion of the vague boundaries in current regulations.

Section 1.18, Title 14, CCR, is amended to read:

1.18 Bay-Delta Sport Fishing Enhancement Stamp

A person shall not sport fish in the tidal waters of San Francisco Bay ~~east of the Golden Gate Bridge, and San Pablo Bay~~ bays east of the Golden Gate Bridge and west of the Carquinez Bridge, (i.e., all tidal waters, sloughs, canals and forebays within the area east of Highway 101, west of Highway 29, west of Interstates 80 and 880, and north of Highway 237, including the Napa River below the Trancas bridge in Napa, Sonoma Creek below the Highway 121 bridge and the Petaluma River east of Highway 101), ~~the~~ Carquinez Strait, the Sacramento-San Joaquin Delta (i.e., all rivers, sloughs, canals, cuts, forebays, and flooded islands within the area south of Highway Interstate 80, west of Highway 99, north of ~~Highways~~ Interstates 580, and 205, and Highway 120, and east of Highway Interstate 680), the Sacramento River below Keswick Dam, the Feather River below Oroville Dam, the Yuba River below Englebright Dam, the American River below Nimbus Dam, the Cosumnes River west of Highway 99, the Mokelumne River below Camanche Dam, the Calaveras River below New Hogan Dam, the San Joaquin River below Mendota Dam, the Stanislaus River below Goodwin Dam, the Tuolumne River below La Grange Dam, and the Merced River below Crocker-Huffman Dam, unless he or she first obtains, in addition to a valid California sport fishing license and any applicable stamp issued pursuant to Section 7149 or 7149.05, a Bay-Delta Sport Fishing Enhancement Stamp and affixes that stamp to his or her valid sport fishing license.

Authority cited: Sections 200, 202, 240, 1050 and 7360, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 240, 713, 1050, 1055, and 7360, Fish and Game Code.